IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

OP.No. 533 OF 2001(L)

PETITIONERS:

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1. C.I. DAVIS, SENIOR INSTRUCTOR (UG), GOVT. INDUSTRIAL TRAINING INSTITUTE FOR WOMEN, NADAKKAVU P.O., CALICUT.

2. R. VENUKUMAR, SENIOR INSTRUCTOR, GOVERNMENT INDUSTRIAL TRAINING INSTITUTE, KOZHIKODE-10.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:

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1. THE DIRECTOR OF TRAINING, DIRECTORATE OF EMPLOYMENT AND TRAINING, THYCAUD, TRIVANDRUM

2. THE GOVERNMENT OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LABOUR (C) DEPARTMENT, TRIVANDRUM.

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GOVERNMENT PLEADER SMT. REMANI.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P. NO. 533/2001

ORDER ON CMP NO. 883/2001 IN O.P. NO. 533/2001

// DISMISSED //

23.5.2007

SD/-
P.R. RAMAN, JUDGE.

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1	COPY OF LIST OF TRADES UNDER THE CRAFTSMEN TRAINING SCHEME AS ON 20.5.1068.
EXT.P2	COPY OF CRAFTSMEN TRAINING SCHEME LIST OF EXISTING TRADES.
EXT.P3	COPY OF JUDGMENT IN O.P. 6815 OF 1996 DATED 12.4.1996 OF THIS COURT.
EXT.P4	COPY OF LETTER NO. A2-13066/94 DATED 4.6.1996 OF THE DIRECTOR OF TRAINING.
EXT.P5	COPY OF NOTIFICATION NO. GO(P) 82/77/LBR DATED 25.10.77 OF THE GOVERNMENT OF KERALA.

RESPONDENTS' EXHIBITS:

NIL.

// TRUE COPY //

P.S. TO JUDGE.

KNC/-

P.R. RAMAN, J.

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O.P. NO. 533 OF 2001

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DATED THIS, THE 23RD DAY OF MAY, 2007.

J U D G M E N T

Petitioners are working as Senior Instructors in the Industrial Training Institute. They entered service as Junior Instructors on being selected by the Public Service Commission. Both of them possess B. Com Degree from the Universities in Kerala and also obtained National Trade Certificate in Stenography. They were promoted as Senior Instructors on 11.10.1994. According to them, they are entitled to be considered for promotion to the post of Group Instructor. The qualification and method of appointment to the various posts in the Industrial Training Institute are regulated by Special Rules issued as per G.O.(P) 408/71/PD dated 29.11.1971 called as the Kerala Craftsman Training Subordinate Service Rules. As per this Special Rules, Out of the nine vacancies for promotion to the post of Group Instructor, the 4th and 8th vacancies are reserved for diploma holders and the 9th vacancy is reserved for graduates. It is the contention of the petitioners that they are graduates in Commerce and therefore, they satisfy

the requisite qualification prescribed for the post of Group Instructor to be considered against the 9th vacancy. The Department took the stand that only Engineering Graduates are entitled to be considered against the 9th vacancy as per the Special Rules.

2. It is averred in the counter affidavit filed by the State that as per the explanatory note to the Special Rules, it is specifically made clear that in order to attract the Engineering Graduates to the Department of Industrial Training and to give encouragement to those who are working in the Department to acquire higher qualification, Government have decided to reserve every 9th vacancy in the category of Group Instructor to be filled up by promotion from departmental hands who possess degree in Engineering and in case no such qualified hands are available , promotion will be made by direct recruitment. Therefore, when the Special Rules were amended reserving the 9th vacancy to be filled up by degree holders, the purpose of the amendment itself was to encourage the Engineering graduates and thus not applicable to the general graduates like the petitioners.

3. Heard both sides. The method of appointment and qualification for the post of several categories including Group Instructors are prescribed in the special rules of Craftsman Training Subordinate Service Rules. For the category of Group Instructor, the method of appointment prescribed is by promotion from Category (ii). In the absence of qualified persons for

promotion from category (ii), by promotion from category (iii). Category (ii) is the post of Senior Instructor which is a promotion post from Category (iii). Category (iii) is the post of Junior Instructor, the method of appointment to which is by direct recruitment and by promotion from Category (iv). The qualification prescribed are SSLC or equivalent qualification and National Trade Certificate in the appropriate trade with three years experience in the trade after obtaining the said certificate or NAC in the appropriate trade with one year experience in the trade after obtaining such certificate or Diploma in the appropriate branch of Engineering from a Government or Government Recognized Polytechnic or its equivalent qualification. Thus, it can be seen that for the purpose of Junior Instructor, the alternate qualification prescribed is a diploma in appropriate branch of Engineering and Junior Instructor's post is the feeder category for promotion to the post of Senior Instructor and the post of Senior Instructor is the feeder category for promotion to the post of Group Instructor. Therefore, when the rules were amended, the 9th vacancy was to go to a degree holder. The purpose of the amendment itself as clarified in the explanatory note is to encourage those who are working in the department to acquire higher qualification. When the basic qualification required for the post of Junior Instructor is Diploma in Engineering, the word "Degree holder" referred to in the amended qualification as against the

9th vacancy to be filled up can only be degree in Engineering in the concerned subject. The stand taken by the Department that only Engineering graduate could be considered as against the 9th vacancy, cannot, therefore said to be arbitrary or unreasonable. If the contention of the petitioners are accepted, persons having graduate qualification in a totally different subject - in Commerce or Arts - will become eligible for promotion to the post of Senior Instructor. So long as the qualification for the feeder category itself does not specify the qualification of holding a degree other than Engineering to contend that for a senior post they need not possess the qualification of a graduation in Engineering, but need only possess some graduate qualification other than Engineering, does not appeal to any reason.

In the circumstances, I find no merit in the contention. The writ petition is accordingly dismissed.

P.R. RAMAN,
(JUDGE)

knc/-

P.R. RAMAN, J.
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O.P. NO. 533 OF 2001
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J U D G M E N T

23.5.2007.